

IN THE DISTRICT COURT OF BECKHAM COUNTY
STATE OF OKLAHOMA

BECKHAM COUNTY
FILED

FEB 10 2015

THE STATE OF OKLAHOMA,)
Plaintiff,)

DONNA HOWELL, COURT CLERK
BY AM DEPUTY

vs.)

Case No. CF-2015-188

KENNETH HAROLD TIBBETTS)
Defendant,)

SS# ██████ 8855 DOB 07/██ 1957)

402 Hoover Circle)

Elk City, OK 73644)

(Home Address)

**PLEA OF GUILTY
SUMMARY OF FACTS**

Part A: Findings of Fact, Acceptance of Plea

1. Is the name just read to you your true name?

Yes

Circle

No

If no, what is your correct name? _____

I have also been known by the name(s): _____

2. My lawyer's name is: Alicia Carrington Sorelle.

3. (a) Do you wish to have a record made of these proceedings by a Court Reporter?

Yes

No

(b) Do you wish to waive this right?

Yes

No

4. Age: 58

Grade completed in school: 12th + some college

5. Can you read and understand this form?

(If the answer above is "no", Addendum A is to be completed and attached.)

Yes

No

6. Are you currently taking any medications or substance which affect your ability to understand these proceedings?

Yes

No

7. Have you been prescribed any medication that you should be taking, but you are not taking?

Yes

No

If so, what kind, and for what purpose? _____

8. Have you ever been treated by a doctor or health professional for a mental illness or confined in a hospital for a mental illness?

Yes

No

If yes, list the doctor or health professional, place, and date occurred: _____

9. Do you understand the nature and consequences of this proceeding?

Yes

No

10. Have you received a copy of the Information and read its allegations?

Yes

No

11. Does the State move to dismiss or amend any case(s) or count(s) in the information or on page 2 of the information? If so, set forth the cases/counts dismissed or amended: _____

Yes

No

12. A. Do you understand that you are charged with:

CF-15-188

- Crime:
- (1) Robbery w/ Weapon AFCF
- (2) Poss Firearm AFCF
- (3) Kidnapping-AFCF
- (4) Kidnapping-AFCF
- (5) Attempted Robbery w/Dang. W AFC
- (6) Attempted Robbery w/Dang. W AFC
- (7) Poss Firearm AFCF

Statutory Reference:

- 21 O.S. 801
- 21 O.S. 1283(A)
- 21 O.S. 741
- 21 O.S. 741
- 21 O.S. 791, 801
- 21 O.S. 791, 801
- 21 O.S. 1283(A)

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

No

No

No

No

No

No

No

No

Yes

No

B. Are you charged after former conviction of a felony?

If yes, list the felony (ies) charged: (1) Kidnapping; (2) Rape-1st

(3) Oral Sodomy

13. Have you previously been convicted of a felony? If so, when, where and for what felony/felonies? 12 B above- Comanche Cty. OK CF-1981-660 on 10/9/1985

Yes

No

14. CHECK IF APPLICABLE:

Do you understand you are subject to the Delayed Sentencing Program for Young Adults and what that sentencing program involves?

Yes

No

Do you understand that upon a conviction on a plea of guilty to the offense(s) of _____ you will be required to serve a minimum sentence of: _____

Yes

No

X 85% of the sentence of imprisonment imposed before being eligible for parole consideration and you are not eligible for earned or other type of credits which will have the effect of reducing the length of sentence to less than 85% of the sentence imposed?

Yes

No

____ % of the sentence of imprisonment imposed or received prior to becoming eligible for state correctional earned credits toward completion of your sentence or eligibility for parole?

Yes

No

Do you understand that a conviction on a plea of guilty to the offense(s) of _____ will subject you to mandatory compliance with the Oklahoma Sex Offender Registration Act?

Yes

No

Do you understand that any person sentenced to imprisonment for two (2) years or more for the offense of _____ involving sexual abuse, sexual exploitation, or illegal sexual conduct, shall be required to serve a term of post-imprisonment supervision for at least three (3) years under conditions determined by the Department of Corrections, in addition to the actual term of imprisonment. There will be no post-imprisonment supervision for a sentence of life or life without the possibility of parole for offenses involving sexual abuse, sexual exploitation, or illegal sexual conduct. Yes No

Do you understand that a conviction on a plea of guilty to the offense(s) of _____ will subject you to mandatory compliance with the Oklahoma Methamphetamine Offender Registry Act? Yes No

X Do you understand that the Court is required to include in the sentence of any person convicted of a felony and sentenced to a term of imprisonment after November 1, 2012, a term of post-imprisonment supervision? The post-imprisonment supervision shall be for a period of not less than nine (9) months nor more than one (1) years following confinement of the person and shall be served under conditions prescribed by the Department of Corrections. There will be no post-imprisonment supervision for a sentence of life without the possibility of parole. Yes No

15. What is/are the charge(s) to which the Defendant is/are entering a plea today?

- (1) Robbery w/Weapon
- (2) Poss. Firearm AFCE
- (3) Kidnapping x2
- (4) Attempted Robbery w/dang. Weapon x2
- (5) Poss. Firearm AFCE

16. Do you understand the range of punishment for the crime(s) is/are:
(List in same order as in No. 15 above)

CF-15-188	(1) Minimum of <u>10yr</u> to a maximum of <u>Life</u> and/or a fine of \$ _____	Yes	No
	(2) Minimum of <u>10yr</u> to a maximum of <u>Life</u> and/or a fine of \$ _____	Yes	No
	(3) Minimum of <u>10yr</u> to a maximum of <u>Life</u> and/or a fine of \$ _____	Yes	No
	(4) Minimum of <u>10yr</u> to a maximum of <u>Life</u> and/or a fine of \$ _____	Yes	No
	(5) Minimum of <u>10yr</u> to a maximum of <u>Life</u> and/or a fine of \$ _____	Yes	No
	(6) Minimum of <u>10yr</u> to a maximum of <u>Life</u> and/or a fine of \$ _____	Yes	No
	(7) Minimum of <u>10yr</u> to a maximum of <u>Life</u> and/or a fine of \$ _____	Yes	No

17. Read the following statements:

You have the right to a speedy trial before a jury for the determination of whether you are guilty or not guilty, and if you request, to determine sentence. (If pleading to capital murder, advise of procedure in 21 O.S. §701.10(B).

At the trial:

(a) You have the right to have a lawyer represent you, either one you hire yourself, or if you are indigent, a court appointed attorney.

(b) You are presumed innocent of the charges.

(c) You may remain silent or, if you choose, you may testify on your own behalf.

(d) You have the right to see and hear all witnesses called to testify against you and the right to cross-examine them.

(e) You may have your witnesses ordered to appear in court to testify and present evidence of any defense you have to these charges.

(f) The State is required to prove your guilt beyond a reasonable doubt.

(g) The verdict of guilty or not guilty decided by a jury must be unanimous. However, you can waive a jury trial and, if all parties agree, the case could be tried by a Judge alone who would decide if you were guilty or not guilty, and if guilty, the appropriate punishment.

- Do you understand each of these rights? ☒ Yes ☐ No
18. Do you understand by entering a plea of guilty, you give up these rights? ☒ Yes ☐ No
19. Do you understand that a plea or finding of guilty could increase punishment in any future case committed after this plea? ☒ Yes ☐ No
20. Have you talked over the charge(s) with your lawyer, advised her regarding any defense you may have to the charge(s) and had her advice? ☒ Yes ☐ No
21. Do you believe your lawyer has effectively assisted you in this case and are you satisfied with her advice? ☒ Yes ☐ No
22. Do you wish to change your plea of not guilty to guilty and give up your right to a jury trial and all other previously explained constitutional rights? ☒ Yes ☒ No
23. Is there a plea agreement?
What is your understanding of the plea agreement? _____
24. Do you understand the Court is not bound by an agreement or recommendation and if the Court does not accept the plea agreement, you have the right to withdraw your plea of guilty? ☒ Yes ☐ No
25. Do you understand that if there is no plea agreement, the Court can sentence you within the range of punishment stated in Question 16? ☒ Yes ☐ No
26. Do you understand your plea of guilty to the charge(s) is after:
(check one)
() no prior felony convictions
() one (1) felony conviction
() two (2) or more prior felony convictions
List prior felony convictions to which pleading: Ct. 1: Kidnapping;
Ct. 2: Rape; Ct. 3: Oral Sodomy
27. What is/are your plea(s) to the charge(s) and to each one of them? guilty ☒ Yes ☐ No
28. Did you commit the acts as charged on the Information?
State a factual basis for your plea(s) On 5/9/15 I took money from Janie's Garden Center without consent and had a pistol and forced Wes Burris to lie on the ground and confined Laura Cornell by not letting her leave. On May 16, 2015 I attempted to take a vehicle belonging to Tray + Jay Sides by use of a gun and I took their keys. Both times I had a gun and I have a prior felony conviction and should not have had a gun. ☒ Yes ☐ No
29. Have you been forced, abused, mistreated, or promised anything by anyone to have you enter your plea(s)? ☐ Yes ☒ No
30. Do you plead guilty of your own free will and without any coercion or compulsion of any kind? ☒ Yes ☐ No

31. If you are entering a plea to a felony offense, you have a right to a Pre-Sentence Investigation and Report which would contain the circumstances of the offense, any criminal record, social history and other background information about you. Do you want the report? ☒ Yes ☐ No
32. (a) Do you have any additional statements to make to the Court? ☒ Yes ☐ No
- (b) Is there any legal reason you should not be sentenced now? ☒ Yes ☐ No
Presentence Investigation
33. Do you understand that, upon a finding of guilt, if you are not a United States' Citizen, you may be subject to deportation/exclusion pursuant to the laws and Regulations governing the United States Citizenship and Immigration Services? ☒ Yes ☐ No


HAVING BEEN SWORN, I, the Defendant whose signature appears below, make the following statements under oath:

(1) Check One:

- ☐ (a) I have read, understood, and completed this form.
- ☐ (b) My attorney completed this form and we have gone over the form and I understand its contents and agree with the answers. See Addendum "A"
- ☐ (c) The Court completed this form for me and inserted my answers to the questions.
- (2) The answers are true and correct.
- (3) I understand that I may be prosecuted for perjury if I have made false statements to this Court.


 Defendant

Acknowledged this _____ day of FEB 10 2016, 20_____.


 District Judge

34. I, the undersigned attorney for the Defendant, believe the Defendant understands the nature, purpose, and consequence of this proceeding. (S)He is able to assist me in formulating any defense to the charge(s). I am satisfied that the Defendant's waivers and plea(s) of guilty are voluntarily given and he/she has been informed of all legal and constitutional rights. Further, I declare that all formal offers from the Prosecution to accept a plea on terms and conditions that may be favorable to the Defendant have been given to the Defendant.


 Attorney For Defendant/Alicia C. Sorelle

35. The sentence recommendation in Question 23 is correctly stated. I believe the recommendation is fair to the State of Oklahoma.

36. Offer of Proof (Nolo Contendere Plea) _____

 Assistant District Attorney

THE COURT FINDS AS FOLLOWS:

37. A. The Defendant was sworn and responded to questions under oath.
- B. The Defendant understands the nature, purpose, and consequences of this proceeding.
- C. The Defendant's plea(s) of _____ is/are knowingly and voluntarily entered and accepted by the Court.
- D. The Defendant is competent for the purpose of this hearing.
- E. A factual basis exists for the plea(s) (and former conviction(s), if applicable).
- F. The Defendant is guilty as charged: (check as appropriate)
 () after no prior felony convictions.
 () after one (1) prior felony conviction.
 () after two (2) or more prior felony convictions.
- G. Sentencing or order deferring sentence shall be: imposed instant () ; or continued until the _____ day of _____, 20____, at _____ .m. If the Pre-Sentence Investigation and Report is requested, it shall be provided to the Court by the _____ day of _____, 20____.
- H. Defendant is committed to:
 _____ The RID Program
 _____ The FORT Program
 _____ The Delayed Sentencing Program for Youthful Offenders

DONE IN OPEN COURT this _____ day of FEB 10 2016,
 20____.

REBECCA S. STORM, CSR

Court Reporter present

[Signature]
 Deputy Court Clerk

[Signature]
 Judge of the District Court

 Name of Judge (typed or printed)

Part B: Sentence on PleaCase No. CF-2015-188State vs. Kenneth Harold TibbettsDate: February 10, 2016**THE COURT SENTENCES THE DEFENDANT AS FOLLOWS:
TIME TO SERVE**

1. You are sentenced to confinement under the supervision of the Department of Corrections for a term of years as follows: (list in same order as in question No. 15 in Part A)

2. The sentence(s) to run (concurrently/consecutively) _____
 3. Defendant shall receive: _____ Credit for time served OR _____ No credit for time served.

DEFERRED SENTENCE

1. The sentencing date is deferred until _____, 20____ at _____m.
 2. You (will/will not) be supervised. The terms set forth in the Rules and Conditions of Probation filed herein shall be the rules you must follow during the period of deferment.

SUSPENDED SENTENCE or SUSPENDED AS TO PART

1. You are sentenced to confinement under the supervision of the Department of Corrections for a term of years as follows: _____

To be suspended as follows:

(a) ALL SUSPENDED YES NO

- (b) Suspended except as to the first _____ (days) (months) (years) of the term(s) during which time you are to be held in the custody of the Department of Corrections/Beckham County Jail, the remainder of the sentence(s) to be suspended under the terms set forth in the Rules and Conditions of Probation filed herein.

_____ Said period of incarceration shall be in the custody of the Department of Corrections, to be served in the Beckham County Jail, in lieu of the Department of Corrections, pursuant to the Community Service Sentencing Program, 22 O.S. Section 991a-4.1.

_____ Defendant's term of incarceration shall be calculated as :

_____ Calendar days with credit for good behavior only (57 OS §65)

_____ As calculated by the Sheriff with all implemented and allowable credits allowed by law.

2. The sentence(s) to run: concurrently/consecutively _____
 3. Defendant shall receive: _____ Credit for time served or _____ No credit for time served.

FINES AND COSTS

You are to pay a fine(s), costs, fees and/or restitution to the **BECKHAM COUNTY DISTRICT COURT CLERK** as set out in the Rule 8 Payment Order.

NOTICE OF RIGHT TO APPEAL

Sentence to Incarceration, Suspended or Deferred:

To appeal from this conviction, or order deferring sentence, on your plea of guilty, you must file in the District Court Clerk's Office a written Application to Withdraw your Plea of Guilty within ten (10) days from today's date. You must set forth in detail why you are requesting to withdraw your plea. The trial court must hold a hearing and rule upon your Application within thirty (30) days from the date it is filed. If the trial court denies your application, you have the right to ask the court of Criminal Appeals to review the District Court's denial by filing a Petition for Writ of Certiorari within ninety (90) days from the date of denial. Within ten (10) days from the date the Application to Withdraw Plea of Guilty is denied, notice of intent to appeal and designation of record must be filed pursuant to Oklahoma Court of Criminal Appeals Rule 4.2 (D). If you are indigent, you have the right to be represented on appeal by a court-appointed attorney.

Do you understand each of these rights to appeal?

☒ Yes

☐ No

Do you want to remain in the County Jail ten (10) days before being taken to the place of confinement?

☐ Yes

☒ No

Have you fully understood the questions that have been asked?

☒ Yes

☐ No

Have your answers been freely and voluntarily given?

☒ Yes

☐ No

I ACKNOWLEDGE UNDERSTANDING OF RIGHTS AND SENTENCE IMPOSED.

Kenneth J. Jihl
Defendant

I, the undersigned attorney, have advised the Defendant of the appellate rights.

Alicia Carington Sotelle
Attorney for Defendant

Done in open court, with all parties present, this FEB 10 2016 day of 20.

REBECCA S. STORM, CSR

Court Reporter present

[Signature]
Deputy Court Clerk

[Signature]
Judge of the District Court

ADDENDUM "A"
CERTIFICATE OF DEFENSE COUNSEL

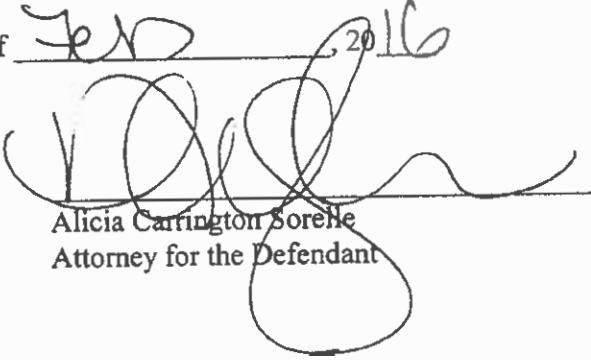
As the attorney for the Defendant Kenneth Harold Tibbetts, I certify that:

1. The Defendant has stated to me that he/she is able ~~unable~~ to read and understand the attached form, and I have: (Check appropriate option)

✓ determined the Defendant is able to understand the English language.
 determined the Defendant is unable to understand the English language
and I have obtained _____ to interpret.

2. I have read and fully explained to the Defendant the allegations contained in the Information in this case.
3. I have read and fully explained to the Defendant all of the questions in the Plea of Guilty/Summary of Facts, and the answers to the questions set out in the Summary of Facts are the Defendant's answers.
4. To the best of my knowledge and belief, the statements and declarations made by the Defendant are accurate and true and have been freely and voluntarily made.

Dated this 10 day of Feb, 2016


Alicia Carrington Sorelle
Attorney for the Defendant